

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Deshana Renee Barner,  
 Plaintiff(s),  
 vs.  
 Centennial Hills Hospital, *et al.*,  
 Defendant(s).

**2:24-cv-01467-JAD-MDC**

**ORDER DENYING IFP APPLICATION**

Pending before the Court is *pro se* plaintiff Deshana Renee Barner's *Motion/Application to Proceed in Forma Pauperis* ("IFP") (ECF No. 1). For the reasons stated below, the Court DENIES plaintiff's IFP application.

**DISCUSSION**

Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of fees or security thereof" if the plaintiff submits a financial affidavit that demonstrates the plaintiff "is unable to pay such fees or give security therefor." The Ninth Circuit has recognized that "there is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn IFP status." *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but he must demonstrate that because of his poverty he cannot pay those costs and still provide himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

The applicant's affidavit must state the facts regarding the individual's poverty "with some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial status and to deny a request to proceed in forma pauperis. See, e.g., *Marin v. Hahn*, 271 Fed.Appx. 578 (9th Cir. 2008) (finding that the district court did not abuse its discretion by denying the plaintiff's request to proceed IFP because he "failed to

1 verify his poverty adequately”). “Such affidavit must include a complete statement of the plaintiff’s  
2 personal assets.” *Harper v. San Diego City Admin. Bldg.*, No. 16cv00768 AJB (BLM), 2016 U.S. Dist.  
3 LEXIS 192145, at 1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient grounds in  
4 themselves for denying an in forma pauperis application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441, 443-  
5 44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on in forma  
6 pauperis application).

7         The District of Nevada has adopted three types of IFP applications: a “Prisoner Form” for  
8 incarcerated persons and a “Short Form” (AO 240) and “Long Form” (AO 239) for non-incarcerated  
9 persons. The Long Form requires more detailed information than the Short Form. The court typically  
10 does not order an applicant to submit the Long Form unless the Short Form is inadequate, more  
11 information is needed, or it appears that the plaintiff is concealing information about his income for  
12 determining whether the applicant qualifies for IFP status. When an applicant is specifically ordered to  
13 submit the Long Form, the correct form must be submitted, and the applicant must provide all the  
14 information requested in the Long Form so that the court is able to make a fact finding regarding the  
15 applicant's financial status. *See e.g. Greco v. NYE Cty. Dist. Jude Robert Lane*, No.  
16 215CV01370MMDPAL, 2016 WL 7493981, at 3 (D. Nev. Nov. 9, 2016), report and recommendation  
17 adopted sub nom. *Greco v. Lake*, No. 215CV001370MMDPAL, 2016 WL 7493963 (D. Nev. Dec. 30,  
18 2016).

19         Plaintiff’s IFP application (ECF No. 1) is incomplete and has some discrepancies; therefore, the  
20 Court cannot determine whether plaintiff qualifies to proceed IFP at this time. Plaintiff does not answer  
21 question 2 which asks whether she is employed, and if so, what her wages are. ECF No. 1 at 1. Plaintiff  
22 states that she receives no other form of income. *Id.* Plaintiff reports that she has no money in her  
23 checking and/or savings account. *Id.* at 2. Plaintiff also reports that she has no other assets to her name  
24 and does not have any monthly expenses. *Id.* This is inconsistent with the fact that an internet search  
25 reveals that plaintiff’s docketed address is a condo home, which would generally require some form of

1 payment –rent or mortgage, utility, or both. Plaintiff cares for her minor child. *Id.* However, the Court is  
2 unable to understand, nor does plaintiff explain, how she is able to care for her child when she has no  
3 income. Thus, the Court denies plaintiff’s IFP application, but does so without prejudice. Plaintiff may  
4 file a long-form IFP application addressing the Court’s concerns. The long-form IFP application must be  
5 complete, and no questions may be left blank. Simply answering a question with “N/A” will not suffice.

6  
7 ACCORDINGLY,

8 **IT IS ORDERED that:**

- 9 1. The IFP application (ECF No. 1) is DENIED WITHOUT PREJUDICE.
- 10 2. Plaintiff must file a long-form IFP application OR pay the full \$405 filing fee by **September**  
11 **13, 2024**. Failure to timely comply with the Court’s Order may result in a recommendation  
12 that the case be dismissed.

13  
14 DATED this 14<sup>th</sup> day of August 2024.

15 IT IS SO ORDERED.

16  
17   
18 Hon. Maximiliano D. Couvillier III  
United States Magistrate Judge

19 **NOTICE**

20 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and  
21 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk  
22 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal  
23 may determine that an appeal has been waived due to the failure to file objections within the specified  
24 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985).

1           This circuit has also held that (1) failure to file objections within the specified time and (2)  
2 failure to properly address and brief the objectionable issues waives the right to appeal the District  
3 Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d  
4 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).  
5 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any  
6 change of address. The notification must include proof of service upon each opposing party's attorney,  
7 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may  
8 result in dismissal of the action.